

## FLEXE.COM TERMS OF SERVICE

(Last Revised: June 1, 2016)

The website located at [www.flexe.com](http://www.flexe.com) (the “Site”) is a copyrighted work belonging to Flexe, Inc. (“Flexe”, “us”, and “we”). Flexe provides a service that connects individuals or entities who have available warehouse space (“Warehouse Operator(s)” or “you”) with individuals or entities who desire to store Goods (defined below) in a warehouse (“Depositor(s)” or “you”) (collectively, the Site and the services offered therein, the “Site Services”). Flexe, Warehouse Operator(s) and Depositor(s) are sometimes referred to individually as a “party” and collectively as the “parties”.

By using the Site, opening an Account (defined below) or using or receiving any Site Services, you agree to be bound by these terms of service (the “Agreement”) and any future amendments and additions to this Agreement as specified in Section 12.1 below. If you are using the Site on behalf of an entity, you represent and warrant that you are an authorized representative of such company, entity, or organization with the authority to bind it to this Agreement.

THIS AGREEMENT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMITS THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE, INCLUDING THE AMOUNT OF ANY RECOVERABLE DAMAGES.

FLEXE OFFERS INFORMATION ABOUT, AND A METHOD TO OBTAIN, WAREHOUSE STORAGE SPACE AND WAREHOUSE RELATED SERVICES (COLLECTIVELY, THE “WAREHOUSE SERVICES”) PROVIDED BY WAREHOUSE OPERATORS. FLEXE DOES NOT ITSELF PROVIDE WAREHOUSE SERVICES, AND DOES NOT ACT AS A WAREHOUSE OPERATOR OR DEPOSITOR. SUBJECT TO THE LIMITED EXCEPTIONS BELOW, FLEXE HAS NO RESPONSIBILITY OR LIABILITY FOR ANY WAREHOUSE SERVICES REQUESTED OF AND/OR PROVIDED BY USERS OF THE SITE SERVICES.

### 1. SITE SERVICES DESCRIPTION.

1.1 General. Flexe helps connect Warehouse Operators and Depositors for the storage of, and provision of related materials and handling services for, tangible personal property owned or controlled by a Depositor at a Warehouse (collectively, the “Goods”) by providing a platform whereby Warehouse Operators can post details about a particular warehouse operated by the Warehouse Operator (a “Warehouse”) for potential use by a Depositor. “User” means any user of the Site Services, and may be a Warehouse Operator or a Depositor.

1.2 Warehouse Services Agreement. Warehouse Operators may market and advertise a Warehouse through the Site Services by posting certain information about a Warehouse (a “Warehouse Listing”). Depositors may review Warehouse Listings via the Site Services and submit a reservation request for a particular Warehouse by using the Site Services’ online reservation tools (a “Reservation Request”). To create a Warehouse Listing, initiate a Reservation Request or complete a reservation (a “Reservation”) you must agree to a “Warehouse Services Agreement” (by click-wrap consent, e-signature, or signing a paper version). Each Warehouse Services Agreement will be a unique agreement by and among the applicable Warehouse Operator, Depositor and Flexe, and will be separate from all other Warehouse Services Agreements you may enter into with other Warehouse Operators or Depositors, as the case may be.

1.3 Conflict. If there is a conflict between the terms of this Agreement and the terms of a Warehouse Services Agreement, the terms of this Agreement will control, unless the Warehouse Services Agreement states that a specific provision of this Agreement will be superseded by a specific provision of the Warehouse Services Agreement.

## **2. LICENSES.**

2.1 Accounts. In order to use certain features of the Site Services, you must register for an account with Flexe ("Account") and provide certain information as prompted by the registration form. You represent and warrant that: (a) all required registration information you submit is truthful and accurate; and (b) you will maintain the accuracy of such information. You are responsible for maintaining the confidentiality of your Account login credentials and are fully responsible for all activities that occur under your Account. You agree to immediately notify Flexe of any unauthorized use, or suspected unauthorized use, of your Account or any other breach of security. Flexe cannot and will not be liable for any loss or damage arising from your failure to comply with the above requirements. You agree that any street address you provide with your Account information will be maintained and up to date, and that delivery of papers by first class U.S. mail, email or notice via Account messaging functionality constitutes service of process (1) for any dispute with Flexe and (2) for any other notice relating to your use of the Site Services.

2.2 Site. Subject to the terms of this Agreement, Flexe grants you a non-transferable, non-exclusive license to use the Site for your internal business purposes (e.g., no resale, service bureau, co-branding or white labeling) during the term of this Agreement.

2.3 Certain Restrictions. The rights granted to you in this Agreement are subject to the following restrictions: (a) you may not license, sell, transfer, assign, distribute, host, or otherwise commercially exploit the Site Services; (b) you may not modify, make derivative works of, reverse compile or reverse engineer any part of the Site Services; (c) you may not access the Site Services in order to build a similar or competitive service; and (d) except as expressly stated herein, no part of the Site Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. Any future release, update, or other addition to the functionality of the Site Services is subject to the terms of this Agreement. All copyright and other proprietary notices on any content on the Site Services must be retained on all copies thereof which you have been authorized by Flexe to make.

## **3. OWNERSHIP.**

3.1 Ownership. Excluding your User Content (defined below), you acknowledge that all the intellectual property rights, including copyrights, patents, trademarks, service marks and trade secrets in the Site Services ("IP Rights") are owned by Flexe or Flexe's licensors. The provision of the Site Services pursuant to the limited license granted to you herein does not transfer to you or any third party any ownership rights, title or interest in or to such IP Rights. Flexe and its licensors reserve all rights not specifically granted in this Agreement.

3.2 Modification. Flexe reserves the right, at any time, to modify, suspend, or discontinue the Site Services or any part thereof without notice; provided, however, that if Flexe suspends or discontinues essential and material functionality which materially impedes your ability to perform your obligations pursuant to an outstanding accepted Reservation Request, Flexe will use reasonable efforts to provide

you prior notice of such suspension or discontinuance. Notwithstanding the foregoing, Flexe may immediately suspend or discontinue the Site Services immediately without notice to (a) comply with any applicable law or regulatory or other governmental order, or (b) minimize Flexe's legal exposure to a third party threat, in which case Flexe will use reasonable efforts to provide you notice of such action as soon as reasonably practicable.

3.3 Feedback. If you provide Flexe any feedback, suggestions, bug reports, system errors, and other information or ideas regarding the Site Services ("Feedback"), you hereby assign to Flexe all rights in the Feedback and agree that Flexe shall have the right to use such Feedback and related information in any manner without any obligation to you. If you agree to participate in any case studies, you agree that information you provide in connection with the case study is deemed Feedback and that Flexe may use your name in connection with such Feedback.

#### **4. USER CONTENT.**

4.1 User Content. "User Content" means any and all information, data, and content, other than that provided by Flexe, which a User submits to, or uses with, the Site Services. User Content includes the information provided by a User in connection with the submission of a Warehouse Listing or Reservation Request. You are solely responsible for your User Content. You assume all risks associated with use of your User Content, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure of your User Content that makes you or any third party personally identifiable. For the avoidance of doubt, User Content may include third party content you submit. You agree not to submit third party content unless you have the consent of the applicable third party owner of such content. You may not state or imply that your User Content is in any way provided, sponsored or endorsed by Flexe. You acknowledge and agree that we are not responsible for verifying the accuracy or truthfulness of any User Content and we make no guarantees regarding the accuracy, currency, suitability, or quality of any User Content.

4.2 License. By submitting any content (including without limitation, any photograph, words, pictures, or symbols) or information to us in connection with your registration for and use of the Site Services, you grant us a worldwide, non-exclusive, royalty-free license, sub-licensable through multiple tiers, to use, reproduce, display, distribute, and promote such content and information in any form, in all media now known or hereinafter created and for the purpose of providing the Site Services to you. We may modify your content and information as necessary to provide the Site Services to you. The license granted in this paragraph shall terminate when this Agreement terminates or you cancel your Account.

4.3 Acceptable Use Policy; Privacy Policy. You may not post or submit any content that (a) infringes the copyright, trademark, patent or other intellectual property rights of any person, or which infringes on any person's right of personality or publicity; (b) is defamatory; (c) is misleading, untrue, inaccurate or false; or (d) provides a link to any other websites. Certain information you may post (e.g., personally identifiable information) may be subject to our Privacy Policy located at <https://www.flexe.com/privacy>, which is incorporated herein by reference.

4.4 No Obligation to Post Content. We have no obligation to make publicly viewable or accessible any content that you provide to us or through the Site Services. In addition, we may edit (as necessary to provide the Site Services, e.g., to reformat your content for display on the Site), remove or delete any

content that you submit to us or through the Site Services. Moreover, we reserve the right (but have no obligation) in our sole discretion to review any User Content, investigate, and/or take appropriate action against you (including removing or modifying your User Content, terminating your Account in accordance with this Agreement, and/or reporting you to law enforcement authorities) if you violate this Agreement or otherwise create potential liability for us or any other person.

**5. TERM AND TERMINATION.** This Agreement will remain in full force and effect while you use the Site Services or otherwise maintain an active Account unless terminated in accordance with this Section 5. Flexe may terminate this Agreement immediately, with or without notice, if you breach this Agreement (“Cause”). Flexe may terminate this Agreement without Cause upon forty--eight (48) hours prior notice to you. Upon termination of this Agreement, your right to access your Account and to use the Site Services will terminate immediately (except where Flexe terminates this Agreement without Cause and you have an existing Reservation, in which case your right to access your Account and to use the Site Services will terminate upon the completion of the Reservation). Flexe will not have any liability whatsoever to you for any termination of this Agreement in accordance with this section, including for termination of your access to your Account or deletion of your User Content. Even after this Agreement is terminated, the following provisions of this Agreement will remain in effect: Sections 2.3 and 3 through 12, and all other provisions that by their nature should survive termination.

**6. INDEMNITY.**

6.1 By You. You will defend, indemnify and hold Flexe and its officers, directors, employees, and agents (each a “Flexe Indemnitee”) harmless, including the payment of the Flexe Indemnitee’s reasonable attorneys’ fees, of and from any claim or demand made by any third party due to or arising out of your: (i) use of the Site Services; (ii) User Content; (iii) interaction with any other User; (iv) violation of this Agreement; or (v) violation of any applicable law or regulation. You will not to settle any claim that imposes any obligation or liability on Flexe without the prior written consent of Flexe (such consent shall not be unreasonably withheld, conditioned or delayed). Flexe will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

6.2 By Flexe. Flexe will defend, indemnify and hold you and your officers, directors, employees, and agents (each, a “Customer Indemnitee”) harmless, including the payment of each Customer Indemnitee’s reasonable attorneys fees, of and from any claim or demand made by any third party due to or arising out (i) any claim that the Site Services infringes the intellectual property rights of the third party asserting the claim; (ii) Flexe’s violation of this Agreement; or (iii) Flexe’s violation of any applicable law or regulation. Flexe will not settle any claim that imposes any obligation or liability on you without your prior written consent (such consent shall not be unreasonably withheld, conditioned or delayed). You will use reasonable efforts to notify Flexe of any such claim, action or proceeding upon becoming aware of it.

**7. WARRANTIES.** You represent, warrant and covenant that: (a) you have the right and authority to enter into this Agreement; (b) by entering into this Agreement, you will not violate, conflict with or cause a material default under any other agreements; and (c) you will comply with all applicable laws, rules and regulations in connection with your use of the Site Services.

**8. WARRANTY DISCLAIMERS AND RELEASE.**

THE SITE SERVICES ARE PROVIDED "AS-IS" AND "AS AVAILABLE" AND WE EXPRESSLY DISCLAIM ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT THE SITE SERVICES: (A) WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; (B) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; (C) WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE; OR (D) RESULT IN ANY REVENUE, PROFITS, OR COST REDUCTION. THE SITE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. WE ARE NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS.

WE DO NOT ASSESS THE SUITABILITY, LEGALITY, REGULATORY COMPLIANCE, QUALITY OR ABILITY OF ANY WAREHOUSE OPERATORS OR DEPOSITORS, AND WE MAKE NO WARRANTY REGARDING THE FOREGOING. BY USING THE SITE SERVICES, YOU OR YOUR WAREHOUSE OR GOODS, AS APPLICABLE, MAY BE EXPOSED TO SITUATIONS THAT ARE POTENTIALLY DANGEROUS, OFFENSIVE, HARMFUL, UNSAFE OR OTHERWISE OBJECTIONABLE. YOUR USE OF THE SITE SERVICES IS AT YOUR OWN RISK. YOUR INTERACTIONS WITH OTHER USERS AND THIRD PARTIES ARE SOLELY BETWEEN YOU AND SUCH USERS OR THIRD PARTIES. YOU AGREE THAT FLEXE WILL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE INCURRED AS THE RESULT OF ANY SUCH INTERACTIONS. IF THERE IS A DISPUTE BETWEEN YOU AND ANY USER OR THIRD PARTY, WE ARE UNDER NO OBLIGATION TO BECOME INVOLVED.

YOU HEREBY RELEASE FLEXE (AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS, INSURERS AND ASSIGNS) OF AND FROM, AND HEREBY WAIVE AND RELINQUISH, EACH AND EVERY PAST, PRESENT AND FUTURE DISPUTE, CLAIM, CONTROVERSY, DEMAND, RIGHT, OBLIGATION, LIABILITY, ACTION AND CAUSE OF ACTION OF EVERY KIND AND NATURE (INCLUDING PERSONAL INJURIES, DEATH, AND PROPERTY DAMAGE), ARISING FROM YOUR USE OF THE SITE SERVICES, AND/OR IN ANY WAY RELATED TO OTHER USERS OR THIRD PARTIES. IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

## **9. LIMITATION ON LIABILITY.**

IN NO EVENT SHALL FLEXE OR ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS, INSURERS AND ASSIGNS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFITS OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES (COLLECTIVELY "CONSEQUENTIAL DAMAGES") ARISING FROM OR RELATING TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO YOUR USE OR PROVISION OF WAREHOUSE SERVICES, OR YOUR USE OF, OR INABILITY TO USE, THE SITE SERVICES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH CONSEQUENTIAL DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY AND OUR OFFICERS', DIRECTORS', EMPLOYEES', AGENTS', SUCCESSORS', INSURERS' AND ASSIGNS' LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT OR THE SITE SERVICES FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION,

WILL AT ALL TIMES BE LIMITED TO YOUR ACTUAL PROVABLE DAMAGES NOT TO EXCEED THE LESSER OF (A) ONE THOUSAND DOLLARS (\$1,000) OR (B) AMOUNTS YOU HAVE PAID FLEXE IN THE PRIOR TWELVE (12) MONTHS (IF ANY). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

**10. THIRD PARTY SITES, CONTENT AND SERVICES.** The Site Services might contain links to third party websites and services offered by third parties (collectively, "Third Party Sites"). Flexe provides these Third Party Sites only as a convenience and does not endorse, warrant, or make any representations with respect to Third Party Sites. You use all Third Party Sites at your own risk. When you access a Third Party Site, the applicable third party's terms and policies apply, including the third party's privacy and data gathering practices. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction in connection with such Third Party Sites.

**11. COPYRIGHT POLICY.** Flexe respects copyright law and has procedures in place to address any allegedly infringing content on the Site. If you believe any work of authorship available on the Site infringes your copyright, please refer to Flexe's Copyright Policy.

**12. GENERAL.**

**12.1 Changes to These Terms of Service.** This Agreement, and Flexe's policies relating to the Site Services, are subject to occasional revision, and we will notify you by providing an option to accept the new terms before your next use or sending you an email to the last email address you provided to us (if any), messaging through your Account and/or by prominently posting notice of the changes on the Site. Any changes to this Agreement will be effective upon the earlier of (a) the date you accept the new terms, (b) the date thirty (30) calendar days following our dispatch of an email notice to you (if applicable), or (c) the date thirty (30) calendar days following our posting of notice of the changes on the Site. These changes will be effective immediately for new Users of the Site Services. You are responsible for providing us with your most current email address and for regularly reviewing this Agreement and the Site for any changes. In the event that the last email address that you have provided us is not valid, or for any reason is not capable of delivering to you the notice described above, our dispatch of the email containing such notice will nonetheless constitute effective notice of the changes described in the notice. Continued use of the Site Services following our issuance of notice of such changes shall indicate your acknowledgement of, and agreement to be bound by, such changes.

**12.2 DISPUTE RESOLUTION. PLEASE READ THIS CAREFULLY. IT AFFECTS YOUR RIGHTS.**

(a) Any and all controversies, disputes, demands, counts, claims, or causes of action including the interpretation and scope of this clause, and the arbitrability of the controversy, dispute, demand, count, claim, or cause of action between any of the parties to this Agreement and/or any employee, agent, successor, or assign of any of the parties to this Agreement, regarding or relating to the Site, the Site Services, this Agreement or a Warehouse Services Agreement, shall exclusively be settled through binding and confidential arbitration.

(b) Arbitration shall be subject to the Federal Arbitration Act and not any state arbitration law. The arbitration shall be conducted before one commercial arbitrator with substantial experience in

resolving commercial contract disputes from the American Arbitration Association (“AAA”). As modified by this Agreement, and unless otherwise agreed upon by the parties in writing, the arbitration will be governed by the AAA’s rules for commercial arbitration and, if the arbitrator deems them applicable, the procedures for consumer-related disputes.

You are thus GIVING UP YOUR RIGHT TO GO TO COURT to assert or defend your rights EXCEPT for matters that may be taken to small claims court. Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury. You are entitled to a FAIR HEARING, BUT the arbitration procedures are SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT. Arbitrator decisions are as enforceable as any court order and are subject to VERY LIMITED REVIEW BY A COURT.

You and we must abide by the following rules: (1) ANY CLAIMS BROUGHT BY YOU OR US MUST BE BROUGHT IN THE PARTY’S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING; (2) THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON’S CLAIMS, MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND MAY NOT AWARD CLASS-WIDE RELIEF; (3) in the event that you are able to demonstrate that the costs of arbitration will be prohibitive as compared to the costs of litigation, we will pay as much of your filing and hearing fees in connection with the arbitration as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive as compared to the cost of litigation; (4) we also reserve the right in our sole and exclusive discretion to assume responsibility for all of the costs of the arbitration; (5) the arbitrator shall honor claims of privilege and privacy recognized at law; (6) the arbitrator’s award shall be final and may be enforced in any court of competent jurisdiction; (7) subject to the exclusions and waivers in this Agreement or the Warehouse Services Agreement, the arbitrator may award any individual relief or individual remedies that are permitted by applicable law; and (8) each party pays its own attorneys’ fees and costs unless there is an applicable statutory provision that requires the prevailing party to be paid its attorneys’ fees and costs, and then in such instance, the attorneys’ fees and costs awarded shall be determined by applicable law.

(c) Notwithstanding the foregoing, any party may bring an individual action in small claims court. Further, claims of infringement or misappropriation of the other party’s patent, copyright, trademark, or trade secret shall not be subject to this arbitration agreement. Moreover, Flexe or any agent of Flexe (e.g., collections agency) may forego arbitration and initiate a court action to collect outstanding and unpaid amounts owed to Flexe. Such claims shall be exclusively brought in the state or federal courts located in King County, Washington; provided however Flexe may bring claims in a different jurisdiction to the extent required to enforce this Agreement. Additionally, notwithstanding this agreement to arbitrate, either party may seek emergency immediate equitable relief before the state or federal courts located in King County, Washington in order to maintain the status quo pending arbitration, and the parties hereby agree to submit to exclusive personal jurisdiction of those courts for such purpose. A request for such interim measures shall not be deemed a waiver of the right to arbitrate.

(d) With the exception of subparts (1) and (2) in the fourth paragraph of Section 12.2(b) above (prohibiting arbitration on a class or collective basis), if any part of this arbitration provision is deemed to be invalid, unenforceable or illegal, or otherwise conflicts with the Agreement, then the balance of this arbitration provision shall remain in effect and shall be construed in accordance with its terms as if the invalid, unenforceable, illegal or conflicting provision were not contained herein. If, however, either subparts (1) or (2) in the fourth paragraph of Section 12.2(b) above (prohibiting

arbitration on a class or collective basis) is found to be invalid, unenforceable or illegal, then the entirety of this arbitration provision shall be null and void, and neither you nor we shall be entitled to arbitration. If for any reason a claim proceeds in court rather than in arbitration, the dispute shall be exclusively brought in a state or federal court in King County, Washington.

(e) Notwithstanding any provision in this Agreement to the contrary, if we seek to terminate the Dispute Resolution section as included in this Agreement (by exercising our right to modify the Agreement pursuant to Section 12.1 above), any such termination shall not be effective until 30 days after the version of the Agreement not containing the agreement to arbitrate is posted to the Site, and shall not be effective as to any claim of which you provided us with written notice prior to the date of termination.

(f) For more information on AAA, its Rules and Procedures, and how to file an arbitration claim, you may call AAA at 800-778-7879 or visit the AAA website at <http://www.adr.org>.

(g) Any and all controversies, disputes, demands, counts, claims, or causes of action between any of the parties hereunder and/or any employee, agent, successor, or assign of the parties hereunder, regarding or relating to the Site, the Site Services, this Agreement or a Warehouse Services Agreement, shall be governed exclusively by the internal laws of the State of Washington, without regard to its choice of law rules and without regard to conflicts of laws principles except that the arbitration provision shall be governed by the Federal Arbitration Act.

12.3 Force Majeure. Any delay in the performance of any duties or obligations of any party to this Agreement (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the reasonable control of such party.

12.4 Entire Agreement. This Agreement, together with any Warehouse Services Agreements that have been or are in the future entered into by you as contemplated by Section 1.2 hereof, constitutes the entire agreement between you and us regarding the use of the Site Services and supersedes any prior agreements between the parties. Our failure to exercise or enforce any right or provision of this Agreement shall not operate as a waiver of such right or provision. Except as otherwise explicitly stated in this Agreement, if any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. This Agreement may be executed in counterparts.

12.5 Independent Service Provider. Your relationship to Flexe is that of an independent service provider or customer, and no party to this Agreement is an agent, joint venturer, legal representative or partner of any other party to this Agreement.

12.6 Assignment. This Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated, or otherwise transferred by you without Flexe's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. The terms of this Agreement shall be binding upon assignees. Flexe may assign this Agreement without consent in connection with a change in control or sale of the Site Services or at least a majority of its assets or outstanding voting securities.

12.7 Copyright/Trademark Information. Copyright © 2016, Flexe, Inc. All rights reserved. All trademarks, logos and service marks (“Marks”) displayed on the Site Services are our property or the property of third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party, which may own the Marks.

12.8 Electronic Communications. The communications between you and Flexe may involve electronic means, whether you send us emails or other electronic messages, or whether Flexe communicates with you via email or other electronic messages. For contractual purposes, you (a) consent to receive communications from Flexe in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Flexe provides to you electronically (via email or Account messaging) satisfy any legal requirement that such communications would satisfy if they were to be in a hard copy writing.

12.9 Legal Counsel. Each party recognizes that this Agreement is a legally binding contract and acknowledges and agrees that they have had the opportunity to consult with legal counsel of their choice. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis of that party being the drafter of such language. Each party agrees and acknowledges that it has read and understands this Agreement, is entering into it freely and voluntarily, and has been advised to seek counsel prior to entering into this Agreement and has had ample opportunity to do so.